

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LANGGUTH-OLSON  
COMPANY, INC.

Claim No. CU-2320

Decision No. CU 1054

Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LANGGUTH-OLSON COMPANY, INC. in the amount of \$29,296.13 based upon the asserted loss of payment for merchandise shipped to Cuba.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1642-1643K (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are

a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 percentum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

An officer of the claimant corporation has certified that the claimant was organized in New York and that all times between April 2, 1926 and presentation of this claim on April 27, 1967 more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1) (B) of the Act.

Claimant states that all of its stockholders are nationals of the United States.

The record contains letters to the claimant from Cuban collecting banks stating that various consignees had made payments to the bank in local currency and that the bank was awaiting a dollar reimbursement release from a Cuban Government agency, as follows:

<u>Consignee</u>	<u>Amount Collected By Cuban Bank</u>	<u>Date of collection or Date Claimant Notified of Collection</u>
Independent Electric Co. of Cuba, S.A.	\$ 223.57	November 17, 1959
Independent Electric Co. of Cuba, S.A.	\$1,869.35	December 31, 1959
Independent Electric Co. of Cuba, S.A.	\$1,242.01	January 5, 1960

Independent Electric Co. of Cuba, S.A.	\$1,005.72	January 14, 1960
Independent Electric Co. of Cuba, S.A.	\$1,579.26	January 15, 1960
Independent Electric Co. of Cuba, S.A.	\$1,038.44	February, 3, 1960
Independent Electric Co. of Cuba, S.A.	\$ 107.56	April 19, 1960
Independent Electric Co. of Cuba, S.A.	\$5,620.52	April 19, 1960
Ernesto Parces	\$ 302.68	October 5, 1960
Commercial Electrica Cubana, S.A.	\$ 297.00	January 29, 1960
Radio Azcue	\$ 741.97	April 11, 1960
Edelmiro Rivera	\$ 288.62	August 25, 1960
Cia Comercial Winston	\$2,608.55	March 2, 1960

Claimant states that it has not received the funds.

The record further contains copies of bank drafts and correspondence from Cuban banks to the claimant showing that certain consignees had not yet made payments owing to claimant for merchandise shipped to them as follows:

<u>Consignee</u>	<u>Amount Due</u>	<u>Date Payment Due</u>
National Metal Products	\$ 648.91	January 1, 1959
National Metal Products	\$ 648.91	January 31, 1959
National Metal Products	\$ 648.91	March 2 1959

<u>Consignee</u>	<u>Amount Due</u>	<u>Date Payment Due</u>
National Metal Products	\$ 798.04	May 16, 1959
National Metal Products	\$ 798.04	June 15, 1959
B. Fernandez y Cia.	\$ 247.70	February 21, 1960 ✓
Cia Comercial Winston, S.A.	\$1,350.00	January 30, 1960 ✓
R. Neira y Cia.	\$5,035.36	August 25, 1958
R. Neira y Cia.	\$1,867.48	November 9, 1958
Rivera Comercial S.A.	\$ 292.16	April 15, 1957
Independent Electric Co. of Cuba, S.A.	\$ 35.37	November 12, 1959 ✓

Claimant states that it has not received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded not only transfers of funds to creditors abroad, but also payment to creditors within Cuba, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019; and the Claim of Etna Pozzolana Corporation, FCSC Claim No. CU-0049).

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, in those cases where the consignees made payments to Cuban banks the loss occurred one day after collection or one day after the claimant was notified of the collection as follows:

<u>On</u>	<u>As To</u>
November 18, 1959	\$ 223.57
January 1, 1960	\$1,869.35
January 6, 1960	\$1,242.01
January 15, 1960	\$1,005.72
January 16, 1960	\$1,579.26
January 30, 1960	\$ 297.00
February 4, 1960	\$1,038.44
March 3, 1960	\$2,608.55
April 12, 1960	\$ 741.97
April 20, 1960	\$5,728.08
August 26, 1960	\$ 288.62
October 6, 1960	\$ 302.68

In cases where payment was not made by the consignees the loss occurred on September 29, 1959 the day Law 568 became effective or thereafter as payment became due as follows:

<u>On</u>	<u>As To</u>
September 29, 1959	\$10,737.81
November 12, 1959	\$ 35.37
January 30, 1960	\$ 1,350.00
February 21, 1960	\$ 247.70

The Commission has decided that in the certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at

the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that LANGGUTH-OLSON COMPANY INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount Twenty-Nine Thousand Two Hundred Ninety-Six Dollars and Thirteen Cents (\$29,296.13), with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.  
and entered as the Proposed  
Decision of the Commission

JAN 31 1968

*Edward D. Re*  
Edward D. Re, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

Theodore Jaffe, Commissioner

MAR 4 1968

This is a true and correct copy of the decision of the Commission as entered on the records of the Commission.

*Theodore Jaffe*  
The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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